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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,243

05/09/2005

Colin Brown

102790-121 (30063 US/2)

2664

27389 7590 10/31/2007
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EXAMINER

BUSHEY, CHARLES S

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,243

Applicant(s)

BROWN ET AL.

Examiner

Scott Bushey

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 6-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yurdin (Fig. 5; col. 5, lines 10-17).

Applicant should note that the housing (14') around the blower (16) anticipates applicant's "separate manifold". Further, baffle means (110) provides means within the separate manifold for directing airflow in a desired direction (such as downwardly through opening 46, as shown in Fig. 5). It is noted that applicant's claims certainly do not preclude the blower being located within the so-called "separate manifold". It is also noted that the instant specification states at page 4, lines 30-31, that the "manifold may be merely a chamber with an opening".

3. Claims 1, 4, 6-8, and 10-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jane et al '615 (Fig. 4).

Jane et al '615, as previously applied clearly anticipates a vertically aligned wick (73) within a reservoir, wherein air flow through the device enters through inlets (38) in a

horizontal direction, passes through the headspace of exposed wick, enters separate manifold (45) in a horizontal direction under the influence of blower (41), and finally exits the blower and the separate manifold in a vertical direction through directing baffles (39), which are located within the separate manifold at the outlet end thereof. It is noted that applicant's claims certainly do not preclude the blower being located within the so-called "separate manifold". It is also noted that the instant specification states at page 4, lines 30-31, that the "manifold may be merely a chamber with an opening".

4. Claims 1, 3, 6-9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jane et al '967 (Figs. 8 and 10; col. 4, lines 59-67).

Jane et al '967, as previously applied clearly anticipates a vertically aligned wick (32) within a reservoir, wherein air flow through the device enters through inlets (42) in a horizontal direction, passes through the headspace of exposed wick, enters blower (71) in a horizontal direction, exits the blower in a vertical direction and enters separate manifold (46) in a vertical direction under the influence of blower (71), and finally exits the separate manifold through directing baffles, which are located within the separate manifold (46) at the outlet end thereof. It is noted that the instant specification states at page 4, lines 30-31, that the "manifold may be merely a chamber with an opening".

5. Claim 12 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by any one of Mulvaney et al '086 (Fig. 1), Mulvaney '993 (Fig. 1), and Mulvaney '550 (Fig. 1).

Mulvaney et al '086 (Fig. 1), Mulvaney '993 (Fig. 1), and Mulvaney '550 (Fig. 1) each alternatively disclose a device including a reservoir containing a liquid that is wicked up by a wick element, airflow passing the headspace of the exposed wick

element in a horizontal direction under the influence of a fan located within a separate manifold, from which the airflow is exhausted from the device in a horizontal direction through at least one vent to the atmosphere. It is noted that applicant's claims certainly do not preclude the blower being located within the so-called "separate manifold". It is also noted that the instant specification states at page 4, lines 30-31, that the "manifold may be merely a chamber with an opening".

Response to Arguments

6. Applicant's arguments filed September 27, 2007 have been fully considered but they are not persuasive. Applicant's arguments, as directed to each of the references applied against the pending claims, are drawn to a single issue, i.e., that the separate manifold, as claimed by applicant, is not taught or suggested by any of the applied prior art references. The Examiner could not disagree more. As set forth in the rejection statements previously and again above in this Office action, applicant has defined the metes and bounds of the term "separate manifold" in an extremely broad fashion, i.e., the "manifold may be merely a chamber with an opening". Furthermore, the manifold as shown in the Figures of the instant applicant is essentially a grilled outlet chamber which delivers the treated air from the device to the same area of the atmosphere, just through multiple adjacent outlets, in the same manner as air exits a louvered vent opening at the end of an HVAC duct. Clearly, the manifold of the instant invention is not structurally defined in such a way as to be patentably distinct from the air outlets of the applied references.

Conclusion

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7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Bushey
Primary Examiner
Art Unit 1797

csb
10-17-07


10-17-07